

RELIEF OF PERSONS IN THE NAVAL SERVICE OF THE UNITED STATES DURING THE WAR EMERGENCY PERIOD FROM CLAIMS FOR OVERPAYMENT AT THAT TIME NOT INVOLVING FRAUD

FEBRUARY 9, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. ANDREW, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany H. R. 11924]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 11924) to relieve persons in the naval service of the United States during the war emergency period from claims for overpayment at that time, having had the same under consideration, report favorably thereon with the following amendments:

Line 4, strike out the word "made" and insert in lieu thereof the word "received."

Lines 4 and 5, strike out the words "by a disbursing officer."

Men who served in the Army and Navy of the United States during the World War are still being presented with claims from our Government for alleged overpayments made at that time. Where these overpayments were due to fraud or lack of good faith on the part of the recipients the Government is justified in endeavoring to recover the sums involved. But where they were due to the confusion, mistakes, changing orders, erroneous information or lack of it, inevitable to the turmoil of war, and there is no evidence of intention to defraud, we believe that the technical claims of the Government ought not to be pressed. The presentation of such claims so long after the war is a source not only of annoyance but frequently of serious hardship to veterans and to their dependents. The men against whom they are filed have no records or papers by which they can verify these claims and no means of refuting any errors which may be involved in them.

Nevertheless, the Comptroller General feels obliged, under a strict interpretation of the law, to proceed in whatever way he can to recover these overpayments made during the war period. In many instances he has written directly to veterans who left the Army or

the Navy five or six years ago, demanding repayments and threatening proceedings in the courts. In the case of men still in the Army and Navy he has requested the War and Navy Departments to withhold their current pay until such claims are made good, which means that these men must serve the Government for months, sometimes even for more than a year, without pay. In other cases, where the veterans have been accorded compensation for wounds and disabilities incurred in the war, he has asked the Director of the Veterans' Bureau to withhold compensation from the veterans until the claims are met. What is perhaps even more serious, he has asked the Veterans' Bureau to withhold the adjusted compensation which Congress last year contracted to award to all veterans, and these veterans now find their adjusted service credit diminished by the amount of the claims resting against them. As these claims are deducted from the adjusted service credit, this in fact results in a diminution of the adjusted service insurance by about two and a half times the amount of the claims.

Many of these claims arise out of allotments made during the war or payments made to dependents for commutation of quarters, heat and light. The question at issue often grows out of the meaning of the word "dependent." It has been held for example, that an aged widow in receipt of a Civil War pension of \$30 per month was not a "dependent parent" even though she had no other means of livelihood. Commutation of quarters paid by the Government on her account is, therefore, held to have been unwarranted and the refund of payments made in such cases is demanded. In some cases we are informed that dependents and receivers of allotments are to-day being forced to make refunds at the rate of \$1 per month because they are unable to pay more. A most distressing feature arises from the fact that if the veteran or his dependent can not make the refund in any other way, it is forcibly taken out of the veteran's adjusted service benefits.

H. R. 11924 is intended to remedy this situation and to terminate the questionable validity of alleged claims against veterans for the refund of overpayments received in good faith and without fraud during the war. While protecting the Government within reasonable grounds, it would also protect the ex-service men in the future from such harassing demands.

EXHIBIT A

No. 91 SUMNER STREET,
Dorchester, Mass., January 26, 1925.

Hon. A. PIATT ANDREW,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: I read with a great deal of interest and satisfaction an article in the Boston Sunday Globe of yesterday that you had introduced a bill to relieve veterans of the World War from further claims by the Government for alleged overpayments during the war. I am a veteran so affected, and I respectfully present my case to you.

Under date of September 30, 1924, I received from the office of the Comptroller General a letter stating that by reason of erroneous payments to me for commutation of quarters, heat, and light on account of alleged dependent sister for the period April 16, 1918, to February 21, 1919, that I was indebted to the United States in the sum of \$590.17, and that I was to refund the same or action would be taken against me.

The facts of my case are as follows: I served as a first lieutenant in the Three hundred and first Infantry, and was on active duty from May 13, 1917, until

February 21, 1919, and was with combat troops in France from July, 1918, to February, 1919. While at the Third Corps School in France, the question arose as to the commutation of quarters for officers who had dependents. I went over my case with the quartermaster stationed there and explained to him that my mother died just before I went into the service and that both my father, who was unable to work, and my sister, who kept house, were dependent upon me for support. In view of the fact that she was keeping house, and also that the money that I was allotting home to pay expenses was in her name, the quartermaster advised me to put my sister's name on my certificates as the dependent. and I followed his directions.

Again, in view of the fact that my pay vouchers were all approved by a responsible disbursing officer, the allowances for commutation of quarters were accepted in good faith by me, have long since been spent, and I find myself after all these years presented with this claim. It is also a fact that it was not until December, 1918, eight months after the passage of the act of April, 1918, allowing officers commutation of quarters, that the Comptroller General made a decision that a sister was not a dependent.

I recently wrote to the Comptroller General a detailed statement explaining that although my sister was named the money in reality went for the support of my father. He sent me an eight-page affidavit to be filled out by my father to prove his dependency. This was done, and returned with a sworn statement, and I felt that the claim would be dropped. Much to my surprise I understand that my father's affidavit has been interpreted by the comptroller to suit his own opinions and he has ruled that even my dependent father, who has no income at all, does not come within the act so as to allow him as a dependent parent, and he still insists that I refund the money. My situation as to dependency of my father and sister are the same to-day as they were then and in addition I have a wife and child to support. With these obligations before me, and with no income outside of a weekly salary, you can imagine my state of mind on receiving a demand to refund money long since spent.

Although not a resident of your district, I am going to ask you to do what you can in my behalf, and I know your efforts to have passed legislation to relieve veterans from such claims will be appreciated by all veterans.

I want to thank you personally in taking the initiative in this matter, and trust that your efforts will not be in vain.

Respectfully,

ALBERT J. KELLEY.

EXHIBIT B

59 HARRISON STREET,
East Orange, N. J., January 30, 1925.

DEAR MR. ANDREW: In reference to the bill H. R. 11924, for validating payments received in good faith by persons in the naval service during the war for which claims for refund have been instituted under subsequent rulings of the Comptroller General, I beg to submit the following observation drawn from my own experience.

I have in mind the cases of several naval officers of my acquaintance who have suffered great and unwarranted hardship because of these rulings. These officers held permanent commissions in the regular Navy and in addition held a temporary appointment in a higher grade. Each of them was, during the war, found physically incapacitated for continued duty, ordered before a retiring board, and retired. After appearing before the board the Navy Department addressed a letter to each of these officers revoking the temporary rank held by them and reverting them to their permanent rank, and they were retired in this rank.

After about a year had elapsed the Navy Department addressed letters to each of these officers advising them that the letter revoking their temporary appointment had not been in accordance with the law, and directing them to return these letters for cancellation, and to consider themselves as having been retired in their temporary rank. This was done and these officers were then paid back pay for the intervening time and from then on were paid the retired pay of their temporary grade.

Subsequently the Comptroller General ruled that this action of the Navy Department was illegal, demanded a refund from these officers of the higher pay which they had received in good faith from the Navy, and imposed a checkage upon all future payments to them until these claims for refund had been met.

One of these officers was Lieut. W. W. Bayley, a man of brilliant mind and attainments, graduating practically at the head of his class in 1914 at Annapolis. He contracted spinal meningitis while on duty with the North Sea fleet and lost one eye entirely, the vision of the other was impaired, and one ear is totally deaf. He has been able from time to time to get work, but has never been able to keep his place on account of his physical disability. His last work was peddling shirts on the streets of New York City, but even in that his work was apparently not satisfactory and he is again hunting for any kind of a job he can get. The checkage of his retired pay obviously has been a very great hardship on Mr. Bayley and has worked undeserved hardship on his wife and two children. Mr. Bayley does not complain, but it appears clear that he has been done a very great injustice.

Another was Carl E. Beatty, who was retired because of tuberculosis. Finding it necessary to go to work, he took up the only kind of work for which he was fitted, namely, a clerk in the Government departments at Washington. The climate there is most unsuited to a tubercular condition and Mr. Beatty rapidly grew worse, until he lost his job. Having practically no means, Mr. Beatty was unable to go to Colorado or the West. He did, however, go somewhere in New York State and died there recently.

In my own case the demand for refund was originally about \$2,500, and the checkage of retirement pay has been a source of real difficulty. I have been able to obtain work, although the compensation received is insufficient for my complete support and that of my wife and child. I am therefore partially dependent upon my family, and although they are able to contribute to this support, it does not seem fair that they should be forced to do so pending the time when the Navy Department's error is rectified.

Very respectfully,

H. E. ELY, Jr.

HON. A. PIATT ANDREW, M. C.

House of Representatives, Washington, D. C.

EXHIBIT C

1. It is desired to invite the attention of the Secretary of the Navy to certain personal financial affairs. I drew the allowance for "dependent mother" up to August 30, 1923, on which date I was married and changed dependency to "lawful wife."

2. My mother is a widow, living in Danville, Ill. My father died in January, 1920. My mother has been for 10 years in such poor health as to be a semi-invalid. Her age is 58 years. She was, and is, unable to work or support herself on account of her age and poor health. Living with her and dependent on her, and therefore on me, for support was her invalid aged mother, aged 79 years, who was entirely bedridden and helpless. My mother had two children besides myself, both girls, one aged 15 years and one aged 20. The younger was dependent and a student at high school. The older was a student at college, working her way and helped by contributions from me.

3. The sole, total, and only income of my mother was \$24 per month from the rent of a dwelling house (value \$4,200, mortgage of \$2,800). This house was left by my father to my mother and her three children jointly. She had no stocks, bonds, or any other property except household goods, worth perhaps \$75, and her sole income was therefore \$8 per month, the one-third share of rent mentioned (widow's one-third dower right).

4. I drew the allowance for dependent mother and supported my mother, grandmother, and two sisters. My younger sister continued dependent in school. My eldest sister graduated from college and obtained a position teaching school at \$60 per month, in another city, which was barely enough to support her. My claim for allowance for dependent mother is therefore easily seen to be just clean-cut, and incontrovertible.

5. In June, 1922, commenced a series of checkages by the Comptroller General, four in all. In each case I produced affidavits and evidence substantiating my claim and, after some delay, the checkages were remitted. During the past four years I have obtained from my mother no less than 45 sworn affidavits. I have turned in to each postmaster carrying my account no less than two and sometimes three each quarter. I have forwarded 10 direct to the General Accounting Office. I was compelled to make two trips to Washington to appear in person at the General Accounting Office and hasten the remission of checkages,

in order that I might not have to borrow money on a personal note for my expenses. I have had my mother make out sworn affidavits of every conceivable form, and of each successive variety, as it came out, thus compelling her to expose her most intimate financial expenditures and itemization of her living expenses.

6. On August 30, 1923, I was married. My marriage had been delayed 18 months on account of the constant threat of ruinous checkage by the Comptroller General. My wife and I occupy a very small two-room "court" apartment, for which we are compelled by the high-rent situation in New York City to pay \$100 per month, unfurnished. We furnished this apartment by buying second-hand furniture at auction sales. My wife has no income or money of her own and our sole income consists of my pay. We own no automobile. We keep no servant, and the entire housekeeping work, cooking, washing, sewing, etc., is done by my wife. My pay is sufficient only for our bare living expenses. Our amusements are of the simplest and do not include any expensive theaters or restaurants. My pay barely covers rent, food, clothes, school expenses, insurance, savings, and medical attention for my wife.

7. Last month I received another letter from the Comptroller General threatening checkages unless I furnished new and more detailed affidavits from my mother for 1922. During the year 1922 I furnished him with every form of affidavit then extant. It is an outrage to have to ask my mother to make out more sworn affidavits for a period of two years ago and to try to remember her living expenses for that time. To-day I have received another letter demanding immediate information as to my father's exact income for 1919, the year before he died.

8. The attention of the Secretary of the Navy is invited to the humiliating, outrageous, and unreasonable demands of the Comptroller General. The situation has become intolerable, due to anxiety over threats of new checkages. A further checkage would mean financial ruin for me, as I would have to attempt to meet it by borrowing money from some bank on a personal note. My interest and pride in the naval service of the United States has always been of the highest order, but I can not but admit that this constant persecution and threat of pay checkage is the most excellent destroyer of morale which could be devised.

9. It is respectfully requested that the Secretary of the Navy inform me if there is any hope of relief from this humiliating condition.



